

**REMARKS**

An excess claim fee payment letter is submitted herewith for seven (7) additional claims.

Claims 1-30 are all the claims presently pending in the application. Claim 19 is amended to more clearly define the invention and claims 24-30 are added. Claims 1, 5-6, and 11-13 are independent.

These amendments are made only to more particularly point out the invention for the Examiner and not for narrowing the scope of the claims or for any reason related to a statutory requirement for patentability.

Applicant also notes that, notwithstanding any claim amendments herein or later during prosecution, Applicant's intent is to encompass equivalents of all claim elements.

Claim 19 stands rejected under 35 U.S.C. § 112, second paragraph. Claims 1, 5-6, and 11-13 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7 of the Flavin reference (U.S. Patent No. 6,005,603) in view of the Kwoh et al. reference (U.S. Patent No. 6,115,057). Claims 1-7 and 9-17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Hendricks, et al. reference (U.S. Patent No. 5,798,785) in view of the Kwoh et al. reference. Claim 8 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the Hendricks, et al. reference, in view of the Menard, et al. reference (U.S. Patent No. 6,061,056) and in further view of the Kwoh et al. reference.

These rejections are respectfully traversed in the following discussion.

## I. THE EXAMINER'S RESPONSE TO ARGUMENTS

The Examiner alleges that the Applicant “does not provide any significant arguments to the amendment filed on 4/2/2004 except that a statement of ‘Claims 1-23, all the claims presently pending in the Application, are patentably distinct over the prior art of record and are in condition for allowance.’ Therefore, there is no need to response (sic) to Applicant’s arguments. Furthermore, the examiner reapplys the references used in Office Action (Paper No. 17) as discussed below.”

However, Applicant respectfully submits that any such “significant arguments” was not necessary because, as pointed out in the remarks of the April 2, 2004 Amendment, the amendments to independent claims 1, 5-6, and 11-13 were in response to the “Examiners’ proposed amendments to the independent claims that would overcome the rejections. In particular, the Examiners agreed that the above amendments to the independent claims would more particularly point out the invention and clearly overcome the prior art rejection. This Amendment amends independent claims 1, 5-6 and 11-13 in accordance with the Examiners’ very helpful suggestion.” (Emphasis added).

Indeed, the Examiner’s own Interview Summary Record (copy attached) acknowledges that the Examiners and the Applicant’s representative “Discussed proposed amendment to claim 1. Proposed amendment appears to overcome Hendricks.” Therefore, by the Examiner’s own statement, the “amendment appears to overcome Hendricks.”

In other words, during the March 23, 2004 personal interview, after discussing the distinctions between the present invention and the applied references, Examiners Huynh and

Srivastava suggested amending the independent claims to clarify that the one or more announcements are not received via the broadcaster in order to “overcome Hendricks.”

Thus, the April 2, 2004 Amendment was based upon the discussions at the personal interview on March 23, 2004 in which the Examiner suggested amendments to the independent claims that would further clarify the present invention and that would “overcome Hendricks.”

## II. THE CLAIMED INVENTION

The claimed invention, as defined, for example, by independent claim 1, is directed to a segment announcement receiver that includes a receiver section that receives one or more announcements and a controller. The one or more announcements corresponds to a content being provided on one or more content streams. Each of the one or more announcements includes a description about the corresponding content in the one or more of the content streams, a time at which the corresponding content is transmitted on the signal, and a content identifier. Each of the one or more announcements was created by a party other than a broadcaster of the one or more content streams. The one or more announcements are not received via the broadcaster.

As shown, for example, by Figure 1 of the present specification, an exemplary embodiment of the present invention may provide one or more announcements on a first communication connection (such as, for example, a network connection 120) (page 2, line 19 - page 3, line 1; and page 4, lines 15-17). Figure 1 clearly illustrates that a person 111 or group of people 111 may enter descriptive information about a content stream 112 that these people 111 are perceiving. This content stream 112 is provided on a communication connection that is

completely separate from the communication connection that provides the announcements to the segment announcement receivers 150. For, example, the content stream 112 that is shown in Figure 1 is provided over a television broadcast that is a communication channel that is broadcast over the airways and received by the antennas of the televisions 112. In other words, the television broadcast is provided on a communication channel of the airways.

In stark contrast, the announcements that are generated by the person(s) 111 are provided to the receivers on the completely separate communication channel 120.

In this manner, the present invention provides announcements from a person(s) or party that is not the broadcaster of the content stream.

This stands in stark contrast to the conventional systems, such as the applied references, where only the broadcaster of the content could add data to a content stream because the broadcaster controls the communication channel over which the content stream is broadcast. The broadcaster of the content has ultimate control over the content being broadcast and the conventional systems have enabled automatic control over the viewing of the content by a receiver (e.g., a set top device). However, this control over the viewing (e.g., presentation) of the content stream has been based upon signals received from the broadcaster of the content, rather than an independent source which may be more trusted by a user than the broadcaster for providing a competent judgment about the content.

With the inventive system, unlike the applied references, a user does not have to rely upon any data that is provided by a broadcaster regarding the content that is provided by the broadcaster. Rather, a user of the inventive system may receive announcements regarding the

content using a communication channel that is separate from a communication channel that provides the content and which may also be controlled by the broadcaster. In other words, the inventive system provides that the one or more announcements are not received via the broadcaster.

### **III. THE DOUBLE PATENTING REJECTION**

The Examiner alleges that claims 1, 5-6 and 11-13 are unpatentable over claims 1-7 of the Flavin reference (U.S. Patent No. 6,005,603) in view of the Kwoh et al. reference (U.S. Patent No. 6,115,057). Applicant submits that the claims of the patent do not teach the limitations of the present claims.

Specifically, the patent claims teach that the announcements must be created by a party other than the broadcaster of the one or more content streams. In contrast, the claims of the present application do not require that the announcements be created by a third party. Thus, the patent claims do not teach that the announcements have to be created by a third party.

Additionally, the claims of the patent do not require that the announcements be provided on a first communication channel that is separate from a second communication channel that provides a content stream. Therefore, the patent claims do not teach or suggest that the announcements be provided on a first communication channel that is separate from a second communication channel that provides a content stream.

Therefore, the claims of the patent do not teach the limitations of the application claims.

Applicant respectfully requests withdrawal of this rejection.

#### IV. THE PRIOR ART REJECTIONS

##### A. The Hendricks et al. reference in view of the Kwoh et al. reference

The Examiner alleges that the Kwoh et al. reference would have been combined with the Hendricks et al. reference to form the claimed invention. Applicant submits, however, that these references would not have been combined and even if combined, the combination would not teach or suggest each and every element of the claimed invention.

As agreed by Examiners Huynh and Srivastava during the March 23, 2004, personal interview, neither of the Hendricks et al. reference and the Kwoh et al. reference teaches or suggests the features of the present invention including one or more announcements are not received via the broadcaster. As explained above, this feature is important for a user of the inventive system to ensure the ability to alter the presentation of content being provided by a broadcaster on a communication channel using announcements whose judgment may be trusted because the announcements are provided on a communication channel that is separate from the channel that provides the content. In other words, the announcements are not received via the broadcaster.

In stark contrast, the Hendricks et al. reference merely discloses a receiver (e.g. set top terminal 220) that receives information from the broadcaster (e.g., the operations center 202) via a communication channel that passes from the operations center 202, uplink sites 204, satellite 206, the cable headend 208 and the concatenated cable system 210 (col. 4, line 60 - col. 5, line

3). In other words, the Hendricks et al. reference discloses providing the content (programs) on the same communication channel as the program control information signal.

While it is true that the external program sources each broadcast their own corresponding content, the operations center 202 receives the content from the external program sources and also broadcasts the content. Therefore, since the operations center 202 performs both the functions of broadcasting content and providing the program control signal, the Hendricks et al. reference does not teach or suggest providing the program control signal being provided by a party other than a broadcaster.

Indeed, the Examiner's rejection appears to acknowledge this very difference. The Examiner's Office Action acknowledges that "the program control information is created by CAP at operations center, and modified by network control 214 at the headend, it is not received via external networks." (Emphasis added.) Thus, the Examiner appears to understand and admit that the program control information is received via the broadcaster and, therefore, clearly does not meet the feature recited by the independent claims that the announcements are not received via the broadcaster.

Further, in view of the Examiner's Office Action attempting to allege that the program control information is "not received via external sources" as disclosed by the Hendricks et al. reference is equivalent to the feature of the independent claim that the announcements are not received via the broadcaster, the Examiner appears to confuse "external sources" with "broadcaster."

This is an important concept that is directly related to the point of novelty of the present

invention. As explained by the Applicant's representative during the March 23, 2004 personal interview, this feature stands in stark contrast to the disclosure of the applied references, where only the broadcaster of the content could add data to a content stream because the broadcaster controls the communication channel over which the content stream is broadcast. The broadcaster of the content has ultimate control over the content being broadcast and the conventional systems have enabled automatic control over the viewing of the content by a receiver (e.g., a set top device). However, this control over the viewing (e.g., presentation) of the content stream has been based upon signals received from the broadcaster of the content, rather than an independent source which may be more trusted by a user than the broadcaster for providing a competent judgment about the content.

With the inventive system, unlike the applied references, a user does not have to rely upon any data that is provided by a broadcaster regarding the content that is provided by the broadcaster. Rather, a user of the inventive system may receive announcements regarding the content using a communication channel that is separate from a communication channel that provides the content and which may also be controlled by the broadcaster. In other words, the inventive system provides that the one or more announcements are not received via the broadcaster.

The Examiner's statement that the Hendricks et al. reference discloses that the program control information "is not received via external sources" only reinforces the Applicants argument that the program control information is received via the broadcaster in the Hendricks et al. reference. Therefore, the Hendricks et al. reference clearly does not teach or suggest that the

one or more announcements are not received via the broadcaster.

The Kwoh et al. reference does not remedy these deficiencies of the Hendricks et al. reference. Indeed, the Examiner does not allege that the Kwoh et al. reference teaches or suggest the features of the present invention including one or more announcements are not received via the broadcaster.

Moreover, Applicant submits that these references would not have been combined as alleged by the Examiner. Indeed, the references are directed to completely different matters and problems.

Specifically, the Hendricks et al. reference is directed to addressing the lack of a “method of managing the program choices” (col. 1, lines 45-46). “The problem is that TV programming is not being presented to consumers in a user friendly manner” (col. 2, lines 12-15). “What is needed is an economical system which can present television programs through a user friendly interface which allows the consumer to easily select from among the many program choices . . . that assists the consumer with his program selection . . . for presenting the program choices . . . a system that can be remotely reprogrammed” (emphasis added, col. 2, lines 21-31). See also (col. 2, lines 39-40, 42-43, and 64-65).

In other words, the Hendricks et al. reference is concerned with presenting program choices in a manner which is user friendly.

In stark contrast, the Kwoh et al. reference is specifically directed to providing a television receiver that allows a parent to control the viewing of programs (col. 1, lines 60-62).

One of ordinary skill in the art who was concerned with presenting program choices in a

manner which is user friendly as the Hendricks et al. reference is concerned with providing would not have referred to the Kwoh et al. reference because the Kwoh et al. reference is concerned with the completely different and unrelated problems of providing a television receiver that allows a parent to control the viewing of programs. Thus, the references would not have been combined, absent hindsight.

Further, Applicant submits that the Examiner can point to no motivation or suggestion in the references to urge the combination as alleged by the Examiner.

Lastly, regarding the means plus function recitations, the Examiner has failed to interpret the claims to read only on the structures or materials disclosed in the specification and “equivalents thereof.” The Federal Circuit has made it clear that the Office is required to interpret means plus function language in accordance with 35 U.S.C. § 112, sixth paragraph (see M.P.E.P. §2106; *In re Donaldson*, 16 F.3d 1189, 1193 (Fed. Cir. 1994) and *In re Alappat*, 33 F.3d 1526, 1540 (Fed. Cir. 1994)). Clearly, the Examiner has failed to interpret the claims to read only on the structures or materials disclosed by the present specification and “equivalents thereof.”

Therefore, the Examiner is respectfully requested to withdraw the rejection of claims 1-7, 9-17, and 19-23.

**B. The Hendricks et al. reference in view of the Kwoh et al. reference and in further view of the Menard et al. reference**

Regarding claim 8, the Examiner alleges that the Kwoh et al. reference would have been combined with the Hendricks et al. reference and further alleges that the Menard et al. reference would have been combined with a combination of the Hendricks et al. reference and the Kwoh et al. reference to form the claimed invention. Applicant submits, however, that these references would not have been combined and even if combined, the combination would not teach or suggest each and every element of the claimed invention.

As explained above, Neither of the Hendricks et al. reference and the Kwoh et al. reference teaches or suggests the features of the present invention including one or more announcements are not received via the broadcaster. As explained above, this feature is important for a user of the inventive system to ensure the ability to alter the presentation of content being provided by a broadcaster on a communication channel using announcements whose judgment may be trusted because the announcements are provided on a communication channel that is separate from the channel that provides the content. In other words, the announcements are not received via the broadcaster.

The Menard et al. reference does not remedy these deficiencies. Indeed, the Examiner does not allege that the Menard et al. reference teaches or suggest the features of the present invention including one or more announcements are not received via the broadcaster.

Rather, the Menard et al. reference merely discloses receiving closed caption text from the same communication channel (television signal 2) that provides the content (video 9 and

audio 11) that is provided by the same broadcaster. The Menard et al. reference discloses storing keywords that may be used to retrieve video and audio clips by comparing the keywords to the closed captioned text (col. 5, lines 7-38).

Moreover, Applicant submits that these references would not have been combined as alleged by the Examiner. Indeed, the references are directed to completely different matters and problems.

As explained above, one of ordinary skill in the art would not have combined the Hendricks et al. reference with the Kwoh et al. reference because they are directed to completely different and unrelated problems.

In stark contrast to the Hendricks et al. reference and the Kwoh et al. reference, the Menard et al. reference is directed to the completely different and unrelated problem of monitoring broadcasts and detecting content of particular interest to a user and storing the content (col. 1, line 66 - line 19).

One of ordinary skill in the art who was concerned with presenting program choices in a manner which is user friendly as the Hendricks et al. reference is concerned with providing or who was concerned with the problems of providing a television receiver that allows a parent to control the viewing of programs as the Kwoh et al. reference is concerned would not have referred to the Menard et al. reference because the Menard et al. reference is only concerned with the completely different and unrelated problem of monitoring broadcasts and detecting content of particular interest to a user and storing the content. Thus, the references would not have been combined, absent hindsight.

Further, Applicant submits that the Examiner can point to no motivation or suggestion in the references to urge the combination as alleged by the Examiner. Indeed, the Examiner does not even support the combination by identifying a reason for combining the references.

Therefore, the Examiner is respectfully requested to withdraw the rejection of claim 8.

#### **V. FORMAL MATTERS AND CONCLUSION**

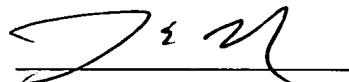
In view of the foregoing amendments and remarks, Applicant respectfully submits that claims 1-30, all the claims presently pending in the Application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the Application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Attorney's Deposit Account No. 50-0510.

Respectfully Submitted,

Date: 8/10/04



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